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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/584,489	06/01/2000	Hieronymus Andriessen	4832/Bisquat	4952

7590 02/09/2004
Breiner & Breiner
P O Box 19290
Alexandria, VA 22320-0290

EXAMINER

KRUEER, KEVIN R

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 02/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/584,489

Applicant(s)

ANDRIESSEN ET AL.

Examiner

Kevin R Krueer

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 22 January 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE.Claim(s) objected to: NONE.Claim(s) rejected: 3-9, 11, 12, 14 and 20-24.Claim(s) withdrawn from consideration: NONE.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: see attached

Advisory Action

Applicant's arguments filed January 8, 2004 have been fully considered but are not persuasive. The proposed amendments to the specification have been entered.

Applicant argues that Andriessen is not available as a reference under 35 U.S.C. 103(c) since the present application was filed after November 1999, and each of Andriessen and the present application are commonly owned by Agfa-Gevaert. However, such a statement is insufficient for excluding Andriessen as prior art under 35 U.S.C. 103(c). The common ownership must be shown to exist at the time the later invention was made. A statement of present common ownership is not sufficient. A statement such as "Application X and Patent Z were, at the time the invention of Application X was made, jointly owned by Companies A and B" would be sufficient evidence of common ownership.

Applicant further argues that the treatment of CMC with ammonia as taught in Posey-Dowty does not result in a reaction between the ammonia and the CMC. The examiner respectfully disagrees, and pointed to US 4,617,385 in support of the position. Specifically, '385 teaches that quaternary ammonium salts of CMC are made by reacting a solution of CMC with an appropriate quaternary ammonium compound (col 4, lines 9+). The reaction takes place when CMC is contacted with the quaternary ammonium compound in an aqueous solution (col 4, lines 33+) and proceeds at room temperature. Thus, the examiner maintains the position that treating the aqueous CMC solution with ammonia, as taught in Posey-Dowty, results in the synthesis of N-quaternized cellulose.

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Applicant further argues that the treated CMC of Posey-Dowty does not provide an N-quaternized cellulose wherein "positively charged nitrogen atoms, each with 4 covalent bonds, are built into the polymeric molecular structure of the cellulose derivative." The examiner respectfully disagrees. As explained above, the examiner takes the position that ammonia reacts with the CMC when said components are put in an aqueous solution. When the ammonia and CMC react, they result in a polymer wherein "positively charged nitrogen atoms, each with 4 covalent bonds, are built into the polymeric molecular structure of the cellulose derivative" as demonstrated in the formula disclosed in US 4,617,385; column 1, lines 55+.

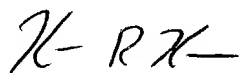
With respect to claim 20, Applicant argues that there is no motivation to select the claimed N-quaternized cellulose. The examiner respectfully disagrees. The claimed species are commercially available under the tradenames DELLCOAT L200, CELQUAT H100, CELQUAT L200 and Polyquaternium 4 (see page 8, last line of the second paragraph). Thus, the examiner maintains the position that the genus taught in Posey-Dowty renders the claimed species obvious and that one of ordinary skill in the art would have been motivated to utilize said species of N-quaternized cellulose in order to reduce processing costs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R Kruer whose telephone number is 571-252-1510. The examiner can normally be reached on Monday-Friday, from 7:30a.m. to 4:00p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau can be reached on 571-252-1516. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-252-1700.



Kevin R. Kruer
Patent Examiner-art unit 1773



Paul Thibodeau
Supervisory Patent Examiner
Technology Center 1700